



UNITED STATES
ENVIRONMENTAL
PROTECTION AGENCY
REGION VIII
999 18th STREET - SUITE
300

July 28, 2004

Ref: 8ENF-W

CERTIFIED MAIL 7003 2260 0001 7777 9310
RETURN RECEIPT REQUESTED

Joann S. Christensen, Registered Agent
Fish Lake Cabin Owners Assn Inc.
180 N. 1st East
Salina, UT 94654

Re: Administrative Order
Docket No. SDWA-08-2004-0030
PWS ID# AH21036 (formally 4901520)

Dear Ms. Christensen:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that the Fish Lake Cabin Owners Assn Inc. ("Association") is a supplier of water as defined by the SDWA and that the Association has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.21(a)(2), 141.21(b), 141.21(b)(5), 141.23(d), 141.21(a)(1), 141.201, 141.21(g)(2) and 141.31(b) for: failure to monitor for bacteriological quality and nitrate; failure to submit a bacteriological sample siting plan; failure to provide public notice of the violations and failure to report SDWA violations to the State.

If the Association complies with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$32,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering the Association to comply.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the business, organization or governmental jurisdiction is a small entity as defined by SBREFA.



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Additionally, instructions and a template for completing a public notice of the violations are also enclosed.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information can be sent to Kathelene Brainich at the address on the letterhead, include the mailcode 8ENF-W, or you may call Ms. Brainich at (800) 227-8917, extension 6481, or (303) 312-6481. If you wish to have an informal conference with EPA, you may also call or write Ms. Brainich. If you are represented by an attorney, please ask your attorney to direct any legal questions to Peggy Livingston at the above 800 number, extension 6858, or at (303) 312-6858.

We urge your prompt attention to this matter.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures
Order
SBREFA
Public Notice

cc: Kenneth Bousfield, UT DEQ
Forest Supervisors Office, Fish Lake National Forest



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF)	
)	
Fish Lake Cabin Owners Assn Inc.)	
Salina, Utah)	
)	
Respondent)	
)	ADMINISTRATIVE ORDER
Proceedings under Section 1414(g))	
of the Safe Drinking Water Act,)	DOCKET NO.: SDWA-08-2004-0030
42 U.S.C. § 300g-3(g))	
_____)		

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g) and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Fish Lake Cabin Owners Assn Inc. (Respondent) is a corporation under the laws of the State of Utah as of August 5, 1940 and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Lake View Subdivision Water System (the "System"), located in Sevier County, Utah for the provision to the public of piped water for human consumption.
3. The System has at least 15 service connections or regularly serves an



average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "non-community water system" within the meaning of 40 C.F.R. § 141.2.

4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g et seq., and its implementing regulations, 40 C.F.R. Part 141.
5. According to a June 26, 2003 sanitary survey by the Utah Department of Environmental Quality, the System is supplied by a groundwater source consisting of one spring with no treatment and serves approximately 50 persons from May through September.
6. The Utah Department of Environmental Quality has primary enforcement authority for the public water supply protection program under the Safe Drinking Water Act in the State of Utah (State). On June 14, 2004, EPA issued a Notice of Violation to the State requesting that it enforce the violations at the Lake View Subdivision Water System within 30 days. The State chose not to commence enforcement for the violations.



FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.21(a)(2) requires any non-community public water systems serving an average daily population of less than 1,001 with a groundwater source to monitor their water at least once per quarter to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. Respondent failed to monitor the System's water for contamination by total coliform bacteria during the 3rd (July-September) quarter of 2003 and the 2nd (April-June) quarters of 2002, 2001, and 2000, in violation of 40 C.F.R. § 141.21(a)(2).

II.

1. 40 C.F.R. § 141.21(b) requires public water systems to collect no fewer than four repeat samples within 24 hours of being notified of a total coliform positive routine sample.
2. Respondent failed to collect four repeat samples within 24 hours of being notified of a total coliform positive routine sample in June 2003 and June 1999, in violation of 40 C.F.R. § 141.21(b).



III.

1. 40 C.F.R. § 141.21(b)(5) requires any public water system that collects fewer than 5 routine samples per month and has one or more total coliform positive sample to collect at least 5 routine samples during the next month the system provides water to the public.
2. Respondent failed to collect at least 5 routine samples in June 2003 and August 1999 after a total coliform positive sample in the preceding month, in violation of 40 C.F.R. § 141.21(b)(5).

IV.

1. 40 C.F.R. § 141.23(d) requires public water systems to monitor annually for nitrate to determine compliance with the nitrate MCL as stated in 40 C.F.R. § 141.62.
2. Respondent monitored for nitrate in 2002 but failed to monitor in 1999, 2001, and 2003, in violation of 40 C.F.R. § 141.23(d).

V.

1. 40 C.F.R. § 141.21(a)(1) requires public water systems to collect total coliform samples at sites which are representative of water throughout the distribution system according to a written sample siting plan.
2. Respondent has failed to submit a total coliform sample siting plan, in violation of 40 C.F.R. § 141.21(a)(1).



VI.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulations (NPDWR) violations, including violations of the MCL, maximum residual disinfection level (MRDL), treatment technique (TT), monitoring requirements, and testing procedures in 40 C.F.R. part 141.
2. Respondent has not provided public notice of the noncompliance detailed in the preceding Sections I through V, in violation of 40 C.F.R. § 141.201.

VII.

1. 40 C.F.R. § 141.21(g)(2) requires any public water system that has failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the violation to the State within ten days after the system discovers the violation.
2. Respondent failed to report to the State the noncompliance detailed in Sections I through III, in violation of 40 C.F.R. § 141.21(g)(2).

VIII.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. part 141) to the State within 48



hours.

2. Respondent failed to report to the State the noncompliance detailed in Sections IV, V and VI, in violation of 40 C.F.R. § 141.31(b).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT
IS ORDERED:

1. Upon the effective date of this Order, Respondent shall comply with the requirement of 40 C.F.R. § 141.21(a) to perform quarterly bacteriological monitoring. Respondent shall comply with the MCLs as stated in 40 C.F.R. § 141.63. Respondent shall report analytical results to the State and EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
2. Upon the effective date of this Order, Respondent shall comply with all total coliform repeat sampling requirements specified in 40 C.F.R. § 141.21(b). This requires that Respondent take no fewer than 4 repeat samples within 24 hours of being notified of a total coliform positive routine sample. Each repeat sample is to be analyzed for total coliform bacteria. At least one repeat sample must be taken from each of the following: a) the tap where the original total coliform positive sample was taken, b) a tap within 5 service connections upstream of the original total coliform positive tap, and c) a tap within 5 service connections



downstream from the original total coliform positive tap. The fourth repeat sample is to be taken at any tap within 5 service connections upstream or downstream of the original total coliform positive tap. Respondent shall report analytical results to the State and EPA within the first 10 days following the end of

the monitoring period, as required by 40 C.F.R. § 141.31(a).

3. Upon the effective date of this Order, Respondent shall comply with all sampling requirements specified in 40 C.F.R. § 141.21(b)(5). If Respondent's water system has one or more total coliform positive samples in a month, Respondent shall collect at least 5 routine samples during the next month the system provides water to the public. Respondent shall report analytical results to the State and EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
4. Within 30 days of the date of this Order, and per the regulation thereafter, Respondent shall comply with the nitrate monitoring requirements as stated in 40 C.F.R. § 141.23(d) to determine compliance with the nitrate MCL appearing at 40 C.F.R. § 141.62(b). Respondent shall report analytical results to the State and EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
5. Within 30 days of the effective date of this Order, Respondent shall



provide the State and EPA with a written sample siting plan for total coliform monitoring, as required by 40 C.F.R. § 141.21(a).

6. Within 30 days from the effective date of this Order, Respondent must comply with the public notice requirements set forth at 40 C.F.R. § 141.201 et seq. to return to compliance with 40 C.F.R. §§ 141.201, 141.204, and 141.205 for the violations specified under the Findings of Violation in this Order. Specifically, Respondent must provide public notice in accordance with 40 C.F.R. § 141.204. Public Notice must be given by any one of the following methods: (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system; (2) by mail or direct delivery to each customer and service connection; AND (3) any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by the public notice described in (1) and (2), including publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to the State and EPA within 10 days of completion of the public notice, as



required by 40 C.F.R. § 141.31(d).

7. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to the State and EPA within ten days after the system discovers the violation.
8. Except where a different reporting period is specified in paragraph 7 above, upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any NPDWR (40 C.F.R. Part 141) to the State and EPA within 48 hours.
10. Reporting requirements specified in this Order shall be provided by certified mail to both:

Kathelene Brainich (8ENF-W) AND
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

Kenneth Bousfield
UT Dept. Environmental Quality
POB 144830 (Drinking Water)
Salt Lake City, UT 84114-4830

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order may subject the Respondent to an



administrative civil penalty of up to \$27,500 per day of violation under Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), or a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(g)(3)(C) of the Act, 42 U.S.C. § 300g-3(g)(3)(C). The penalty amounts provided in section 1414 of the Act have been adjusted for inflation, according to 40 C.F.R. part 19.

3. Violation of any requirement of the Act, its implementing regulations, or this Order may subject Respondent to a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
4. The effective date of this Order shall be the date of issuance of this Order.

Issued this ____ day of _____, 2004.

David J. Janik

Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



**IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE
REGIONAL HEARING CLERK.**

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON JULY 28, 2004.

